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1 essential the imposition of impact fees on new development within the City and
2 the urban area. It is the intent of the Governing Body to:

- 3 (1) Promote the health, safety and general welfare of the people of the City of
4 Santa Fe and to enable the City to accommodate orderly growth and
5 development;
- 6 (2) To provide for the imposition and collection of an impact fee upon new
7 development within the City to serve the demand for capital facilities and
8 public improvements; and
- 9 (3) To insure that new development contributes its proportionate share of the
10 cost of capital expenditures necessary to provide public facilities and
11 infrastructure that has a rational nexus to the proposed development.

12 **(C) Fee Assessment and Collection**

- 13 (1) The assessment for impact fees occurs at the time a plat or development
14 plan receives final approval, or in the absence of a plat or plan, the
15 building permit application, whichever is later. Impact fees collected
16 within four years of the date of assessment shall be based on the impact
17 fee schedule in effect at the time of assessment. After the expiration of the
18 four year period the new development shall be subject to the fee schedule
19 in effect at the time of application for a building permit. No action on the
20 part of the City is required for assessment to occur.
- 21 (2) Collection of impact fees shall occur at the time of issuance of a building
22 permit, according to the fee schedule in effect for the development.

23 **(D) Exemptions, Waivers and Reimbursements**

- 24 (1) Certain types of permits for new construction shall be exempt from the
25 terms of this section. An exemption must be claimed at the time of

1 building permit application. The impact fee administrator shall
2 determine the validity of any claim for exemption pursuant to the criteria
3 set forth. The following shall be exempt from the terms of this section:

- 4 (a) Alterations of, or additions to, existing residential uses where no
5 additional dwelling units are created.
- 6 (b) Replacement of a destroyed, partially destroyed or moved
7 residential building or structure with a new building or structure of
8 the same use, and with the same number of dwelling units.
- 9 (c) Replacement of destroyed, partially destroyed or moved
10 non-residential building or structure with a new building or
11 structure of the same gross floor area and use.
- 12 (d) Building permits for new residential units that are part of a master
13 plan, development plan or subdivision plat where land is dedicated
14 to the City for the purpose of providing neighborhood and/or
15 regional park land, according to Section 14-8.15 shall be exempt
16 from neighborhood and/or regional park impact fees.

17 (2) Application for waivers of impact fees shall be made at the time of
18 application for a building permit. Application for reimbursement shall be
19 made after sale or rental of the unit. Applications shall be reviewed by the
20 Community Services Department. Waivers or reimbursements for low
21 priced dwelling units may be provided, as follows:

- 22 (a) Impact fees may be waived for a low priced dwelling unit, as
23 defined in this chapter, if the following are met:
 - 24 (i) The unit is built by or for a non profit affordable housing
25 organization; and

(ii) The unit is sold or rented to a household earning less than 80 percent of the area median income as certified by a non profit affordable housing organization, under contract with the City, or otherwise qualified organization.

(b) Impact fees may be reimbursed for a low priced dwelling unit, as defined in this chapter, if the following are met:

(i) The unit is built by someone other than a non profit affordable housing organization; and

(ii) The unit is sold or rented to a household earning less than 80 percent of the area median income as certified by a non profit affordable housing organization, under contract with the City, or otherwise qualified organization.

(3) In order to promote the economic development of the City or the public health, safety, and general welfare of its residents, the Governing Body may agree to pay some or all of the impact fees imposed on a proposed new development or redevelopment from funds of the City other than impact fees from other developments.

(4) Governmental entities shall pay all impact fees imposed under this section.

(E) Fee Determination

(1) Any person who applies for a building permit, except those exempted or preparing an independent fee calculation study, shall pay impact fees in accordance with the following fee schedule. If any credit is due pursuant to subsection (I), the amount of such credit shall be deducted from the amount of the fee to be paid.

Land Use Type	Unit			N'hood	Reg'l			
		Roads	Signals	Parks	Parks	Fire	Police	Total
S-F Detached Dwelling or Guesthouse								
Heated Living Area:								
(0 to 1,500 sq. ft.)	Dwelling	\$938	\$197	\$127	\$640	\$118	\$29	\$2,049
(1,501 to 2,000 sq. ft.)	Dwelling	\$1,263	\$264	\$186	\$942	\$165	\$40	\$2,860
(2,001 to 2,500 sq. ft.)	Dwelling	\$1,505	\$315	\$230	\$1,167	\$212	\$52	\$3,481
(2,501 to 3,000 sq. ft.)	Dwelling	\$1,698	\$355	\$266	\$1,348	\$259	\$63	\$3,989
(3,001 to 3,500 sq. ft.)	Dwelling	\$1,859	\$388	\$295	\$1,498	\$306	\$75	\$4,421
(3,501 to 4,000 sq. ft.)	Dwelling	\$1,997	\$417	\$320	\$1,626	\$353	\$86	\$4,799
(more than 4,000 sq. ft.)	Dwelling	\$2,118	\$442	\$342	\$1,738	\$400	\$98	\$5,138
Other (Apts., Condos, S.F. Attached)	Dwelling	\$1,230	\$255	\$141	\$722	\$94	\$61	\$2,503
Mobile Home/RV Park	Pad	\$894	\$185	\$228	\$1,162	\$94	\$61	\$2,624
Hotel/Motel	Room	\$1,671	\$346	\$0	\$0	\$182	\$61	\$2,260
Retail/Commercial	G.F.A.							
Shopping Center/General Retail	1000 sq. ft.	\$3,225	\$668	\$0	\$0	\$182	\$61	\$4,136
Auto Sales/Service	1000 sq. ft.	\$2,587	\$536	\$0	\$0	\$182	\$61	\$3,366
Bank	1000 sq. ft.	\$4,349	\$900	\$0	\$0	\$182	\$61	\$5,492
Convenience Store w/Gas Sales	1000 sq. ft.	\$6,078	\$1,258	\$0	\$0	\$182	\$61	\$7,579
Health Club, Recreational	1000 sq. ft.	\$2,331	\$483	\$0	\$0	\$182	\$61	\$3,057
Movie Theater	1000 sq. ft.	\$7,233	\$1,497	\$0	\$0	\$182	\$61	\$8,973
Restaurant, Sit-Down	1000 sq. ft.	\$3,519	\$729	\$0	\$0	\$182	\$61	\$4,491
Restaurant, Fast Food	1000 sq. ft.	\$7,661	\$1,586	\$0	\$0	\$182	\$61	\$9,490
Office/Institutional	G.F.A.							
Office, General	1000 sq. ft.	\$1,815	\$376	\$0	\$0	\$182	\$61	\$2,434
Medical Buildings	1000 sq. ft.	\$2,902	\$601	\$0	\$0	\$182	\$61	\$3,746
Nursing Home	1000 sq. ft.	\$813	\$168	\$0	\$0	\$182	\$61	\$1,224
Church	1000 sq. ft.	\$1,352	\$280	\$0	\$0	\$182	\$61	\$1,875
Day Care Center	1000 sq. ft.	\$2,820	\$584	\$0	\$0	\$182	\$61	\$3,647
Elementary/Sec. School	1000 sq. ft.	\$442	\$92	\$0	\$0	\$182	\$61	\$777
Industrial	G.F.A.							
Industrial, Manufacturing	1000 sq. ft.	\$1,290	\$267	\$0	\$0	\$182	\$61	\$1,800
Warehouse	1000 sq. ft.	\$919	\$190	\$0	\$0	\$182	\$61	\$1,352
Mini-Warehouse	1000 sq. ft.	\$320	\$66	\$0	\$0	\$182	\$61	\$629

G.F.A. – Gross Floor Area; fees shown for non-residential uses are per 1,000 square feet of gross floor area.

- 1 (a) Impact fees shall be assessed on plats and development plans that
2 receive final approval after the effective date of this ordinance
3 according to the impact fee schedule included in this section.
- 4 (b) For building permits issued after the effective date of this
5 ordinance but before January 1, 2004, the impact fees of this
6 ordinance shall be collected according to the fee schedule in effect
7 prior to the effective date of this ordinance, unless the plat or
8 development plan was assessed using an earlier fee schedule less
9 than four years prior to the date of application for the building
10 permit.
- 11 (c) For building permits issued on or after January 1, 2004, but prior to
12 July 1, 2004, the impact fees shall be collected at 75 percent of the
13 fee schedule included in this section, unless the plat or
14 development plan was assessed using an earlier fee schedule less
15 than four years prior to the date of application for the building
16 permit.
- 17 (d) For building permits issued on or after July 1, 2004, the impact
18 fees shall be collected at 100 percent of the fee schedule included
19 in this section, unless the plat or development plan was assessed
20 using an earlier fee schedule less than four years prior to the date
21 of application for the building permit.
- 22 (2) If the type of new development for which a building permit is requested is
23 not specified on the fee schedule, the impact fee administrator shall
24 determine the fee on the basis of the fee applicable to the most nearly
25 comparable type of land use on the fee schedule.

- 1 (3) Impact fees shall be assessed and collected based on the primary use of the
2 building as determined by the impact fee administrator. Where a permit is
3 to be issued for a building “shell” and the impact fee administrator is
4 unable to determine the intended use of the building, the administrator
5 shall assess and collect impact fees according to the zoning district in
6 which the building is to be located as follows:
- 7 (a) C-2 and all SC zones – “Shopping Center/General Retail” fee rate;
8 (b) HZ zone – “Medical Buildings” fee rate;
9 (c) C-1, C-4 and all other non-residential zones – “Office, General”
10 fee rate.
- 11 (4) Live/Work developments containing dwelling unit(s) in combination with
12 non-residential floor area in a common building shall pay impact fees for
13 each dwelling unit according to the residential fee rate for “Other” and for
14 the gross floor area intended for non-residential use according to the
15 “Office, General” fee rate. If the initial Live/Work building permit
16 application is for a shell building permit the impact fee administrator shall
17 collect impact fees at the “Office, General” fee rate. If dwelling units are
18 added as a use within the building after the building has been charged
19 impact fees at a non-residential fee rate, and there is no increase in gross
20 floor area, the impact fee administrator shall collect only the required park
21 impact fees for the dwelling units at the residential fee rate for “Other” at
22 the time of the dwelling unit permit application.
- 23 (5) If a building permit application changes the use of an existing building,
24 expands the gross floor area of an existing building, or replaces an existing
25 building with a new building and new use, the fee shall be based on the net

1 increase in the fee for the new use and/or expansion as compared to what
2 the current fee would be for the previous use or floor area. In the event
3 that the proposed change results in a net decrease in the fee, there shall be
4 no refund of impact fees previously paid.

5 **(F) Independent Fee Calculation**

- 6 (1) The impact fee administrator may require an independent fee calculation
7 for any proposed development interpreted by the impact fee administrator
8 as not one of those types listed on the fee schedule or as one that is not
9 comparable to any land use on the fee schedule.
- 10 (2) The preparation and cost of the independent fee calculation study shall be
11 the sole responsibility of the applicant.
- 12 (3) The independent fee calculation study shall be based on the same service
13 standards and facility costs used in the impact fee capital improvements
14 plan, and shall document the methodologies and assumptions used.
- 15 (4) An independent fee calculation study submitted by an applicant for the
16 purpose of calculating a road or traffic signal impact fee must address all
17 three factors relevant to the generation of service units, namely: trip
18 generation rates, primary trip factors and average trip lengths.
- 19 (5) After review, the impact fee administrator shall approve or reject
20 the conclusions of the independent fee calculation study.

21 **(G) Use of Fees**

- 22 (1) An impact fee fund that is distinct from the general fund of the City is
23 hereby created, and the impact fees received will be deposited in the
24 following interest-bearing accounts of the impact fee fund:
- 25 (a) Road Impact Fee Account;

- (b) Traffic Signal Impact Fee Account;
- (c) Neighborhood Park Impact Fee Account;
- (d) Regional Park Impact Fee Account;
- (e) Fire Impact Fee Account; and
- (f) Police Impact Fee Account.

(2) The impact fee accounts shall contain only those impact fees collected pursuant to this section or pursuant to the previous impact fee ordinance for the type of facilities reflected in the title of the account, plus any interest that has accrued or may accrue from time to time on such amounts.

(3) The monies in each impact fee account shall be used only for the following:

- (a) To acquire or construct capital improvements or facility expansions of the type reflected in the title of the account and identified in the capital improvements plan;
- (b) To pay debt service on the portion of any current or future general obligation bond or revenue bond issued after the effective date of this section and used to finance capital improvements or facility expansions of the type reflected in the title of the account and identified in the capital improvements plan;
- (c) Planning, surveying and engineering fees paid to an independent qualified professional who is not an employee of the municipality or county for services provided for and directly related to the construction of capital improvements or facility expansions;
- (d) Fees actually paid or contracted to be paid to an independent

qualified professional, who is not an employee of the City, for the preparation or updating of a capital improvements plan;

(e) Up to three percent (3%) of total impact fees collected for administrative costs for City personnel;

(f) As described in subsection (H), Refunds; or

(g) As described in subsection (I), Credits.

(H) Refunds

(1) Upon the request of an owner of the property for which an impact fee has been paid, any monies in the impact fee fund, paid for that property, that have not been spent within seven (7) years after the date on which such fee was paid shall be returned to the current owner of record as listed with the County Assessor with interest since the date of payment.

(a) Monies in each impact fee account shall be considered to be spent in the order collected, on a first in/first out basis.

(b) Interest shall be calculated from the date of collection to the date of refund at the statutory rate as set forth in section 56-8-3 NMSA 1978.

(c) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the current owner of the property within thirty (30) days of the date the refund was requested.

(d) All refunds shall be made to the current owner of the property at the time the refund is paid.

(e) Notwithstanding the above, if the impact fees were paid by

1 a government entity, notice shall be given to and the refund
2 shall be made to the government entity.

- 3 (2) If an applicant has paid an impact fee required by this section and the
4 building permit later expires without the possibility of further extension,
5 and the development activity for which the impact fee was imposed did
6 not occur and no impact has resulted, then the applicant who paid such fee
7 shall be entitled to a refund of 97 percent of the fee paid, without interest.
8 In order to be eligible to receive such refund, the applicant who paid such
9 fee must submit an application for such refund within thirty (30) days after
10 the expiration of the permit or extension for which the fee was paid.

11 **(I) Credits**

- 12 (1) Credit against the impact fees shall be provided for contributions made by
13 developers toward the cost of capital improvements or facility expansions
14 identified in the Impact Fees Capital Improvements Plan and eligible for
15 funding with impact fees pursuant to the provisions of this section as a
16 condition of development approval.

17 (a) Credits for eligible improvements shall become effective when the
18 payment has been made, the land has been dedicated in fee simple
19 to the City or the improvements have been completed and have
20 been accepted by the City.

21 (b) No credit will be applied to the road impact fee for improvements
22 to the major roadway system that primarily serve traffic generated
23 by the development project, such as acceleration/deceleration
24 lanes into and out of the project.

25 (c) No credit will be applied to the traffic signal impact fee for

1 installation of a traffic signal at the intersection of a public street
2 and a private road or driveway.

3 (2) In order to receive credit for eligible improvements, the developer shall
4 submit complete engineering drawings, specifications, and construction
5 cost estimates to the impact fee administrator. The impact fee
6 administrator shall determine the amount of credit due based on the
7 information submitted, or where such information is inaccurate or
8 unreliable, then on alternative engineering or construction costs acceptable
9 to the impact fee administrator.

10 (3) To qualify for an impact fee credit, the developer must enter into an
11 impact fee credit agreement with the City prior to plat or plan recordation.
12 The impact fee credit agreement shall specify the following:

13 (a) The amount of the credit; and

14 (b) How the credit will be allocated within the new development.

15 (4) In the event that the new development for which credits have been issued
16 is sold to different owners, the credits usable by each new owner shall be
17 calculated in terms of a percentage of the impact fees that would otherwise
18 be due from the entire new development.

19 (5) The right to claim credits shall run with the land and may be claimed only
20 by owners of property within the new development for which the land was
21 dedicated or the improvement was made. Credits issued for a particular
22 new development shall not be transferable to another development.

23 (6) Credits provided pursuant to this section shall be valid for (10) ten years
24 from the effective date of the impact fee credit agreement.

25 (7) In the absence of an impact fee credit agreement specifically providing

otherwise, no reimbursement shall be made to a developer for the amount of credit due in excess of impact fees otherwise due from the development.

(J) Miscellaneous Provisions

(1) Nothing in this section shall restrict the City from requiring the construction of reasonable project improvements required to serve the new development project, whether or not such improvements are of a type for which credits are available under subsection (I), Credits.

(2) The impact fee administrator shall maintain accurate records of the impact fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, the amount of any credits provided against the fees or refunds paid, and any other matters that the City deems appropriate or necessary for the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice.

(3) If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated and paid as follows:

(a) Any amounts overpaid by an applicant shall be refunded by the impact fee administrator to the applicant within thirty (30) days after the approval of the recalculated amount.

(b) Any amounts underpaid by the applicant shall be paid to the impact fee administrator within thirty (30) days after the acceptance of the recalculated amount.

(c) In the case of an underpayment or nonpayment of impact fees, the

1 City shall not issue any additional permits or approvals for the
2 project for which the impact fee was previously underpaid until
3 such underpayment is corrected, and if amounts owed to the City
4 are not paid within such thirty (30) day period, the City may also
5 issue a stop work order or rescind any permits issued in reliance on
6 the previous payment of such impact fee.

7 (4) Any determination made by the impact fee administrator charged with the
8 administration of any part of this section may be appealed to the Planning
9 and Land Use Department Director within thirty (30) days from the date of
10 the decision appealed. The department director's decision shall be final.

11 (5) Furnishing false information on any matter relating to the administration
12 of this section, including without limitation the furnishing of false
13 information regarding the expected size, use, or impacts from a proposed
14 new development, shall be a violation of this section. The City may issue
15 a stop work order or rescind any permits issues in reliance on the previous
16 payment of such impact fee.

17 **(K) Annual Report / Periodic Updates**

18 The Capital Improvements Advisory Committee (CIAC) shall make an annual
19 report to the governing body on impact fee revenues obtained during the previous
20 year, current impact fee fund amounts, CIP projects under construction that are
21 using impact fee revenues, the effects of impact fees on new housing prices and
22 new affordable housing as well as any perceived inequities in implementing the
23 plan or imposing the impact fee. The land use assumptions and capital
24 improvements plan on which the impact fees imposed by this section are based
25 shall be updated at least every five (5) years. The five-year period begins on the

1 day the capital improvements plan is adopted. The City shall review its current
2 land use assumptions and shall cause an update of the capital improvements plan
3 to be prepared in accordance with the Development Fees Act, sections 5-8-1 to 5-
4 8-42 NMSA 1978.

5 **Section 3. Amending Section 14-12, Definitions, SFCC 1987.**

6 **14-12 DEFINITIONS.**

7 **APPLICANT**

8 As used in section 14-8.14, the applicant for a building permit for which an impact fee is
9 due.

10 **ASSESSMENT**

11 As used in section 14-8.14, the determination of the amount of an impact fee.

12 **CAPITAL IMPROVEMENT**

13 As used in section 14-8.14, any of the following facilities that have a life expectancy of
14 ten or more years and are owned and operated by, or on behalf of, the City:

- 15 A. Roadway facilities located within the service area, including roads,
16 bridges, bike and pedestrian trails, bus bays, rights of way, landscaping
17 and any local components of state and federal highways;
- 18 B. Traffic signals located within the service area at the intersection of two
19 City-maintained arterial streets;
- 20 C. Neighborhood or pocket parks and related areas and facilities, referred to
21 herein as "neighborhood parks;" community and regional parks, open
22 space and trails and related facilities, referred to herein as "regional
23 parks;"
- 24 D. Buildings for fire and rescue and essential equipment costing ten thousand
25 dollars (\$10,000) or more and having a life expectancy of ten years or

more; or

- E. Buildings for police and essential equipment costing ten thousand dollars (\$10,000) or more and having a life expectancy of ten years or more.

CAPITAL IMPROVEMENTS PLAN

As used in section 14-8.14, a plan that identifies capital improvements or facility expansions for which impact fees may be imposed. Capital improvements or facility expansions needed to serve projected development in the service area based on the approved land use assumptions are identified in the Capital Improvement Plan for Water, Wastewater, Roads, Parks, Fire and Police Development Impact Fees, April 2003 or similar subsequent report approved by the governing body.

EQUIVALENT DWELLING UNIT (EDU)

As used in section 14-8.14, a service unit measure representing the impact of a typical single family dwelling on the park system. A typical single family unit represents, on average, one EDU. Other types of units each represent a fraction of an EDU, based on their relative average household sizes.

FACILITY EXPANSION

As used in section 14-8.14, the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development.

HEATED LIVING AREA

As used in section 14-8.14, for the purpose of assessing and collecting impact fees for residential units, heated living area includes all floor area enclosed, heated and intended for daily habitation including kitchens, bedrooms, living or family rooms, dens, laundry

rooms and associated interior stairs and closets. Unless heated and intended as living area, this definition excludes garages, solariums and porches. Heated living area shall be measured from the outside surface of the outside walls enclosing the contiguous floor area.

IMPACT FEE ADMINISTRATOR

As used in section 14-8.14, the City of Santa Fe employee primarily responsible for administering the provisions of this section, or his or her designee.

LAND USE ASSUMPTIONS

As used in section 14-8.14, a description of the service area and projections of changes in land uses, densities, intensities and population in the service area over at least a five-year period.

MAJOR ROADWAY SYSTEM

As used in section 14-8.14, all major and minor arterials identified on the Santa Fe Functional Road Classifications map within the Urban Area.

NEW DEVELOPMENT

As used in section 14-8.14, the subdivision of land; reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.

QUALIFIED PROFESSIONAL

As used in section 14-8.14, a professional engineer, surveyor, financial analyst or planner providing services within the scope of his license, education or experience.

ROADWAY FACILITIES

As used in section 14-8.14, arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the municipality or county. For the purposes of Santa Fe's road impact fees, roadway facilities will be limited to the major roadway

1 system as herein defined.

2 SERVICE AREA

3 As used in section 14-8.14, an area within the corporate boundaries or extraterritorial
4 jurisdiction of a municipality or the boundaries of a county to be served by the capital
5 improvements or facility expansions specified in the capital improvements plan
6 designated on the basis of sound planning and engineering standards. The service area
7 for the City's road, traffic signal, neighborhood park, regional park, fire and police impact
8 fees is the area within the corporate boundaries of the City as well as unincorporated
9 areas within the urban area as set forth in the General Plan.

10 SERVICE UNIT

11 As used in section 14-8.14, standardized measure of consumption, use, generation or
12 discharge attributable to an individual unit of development calculated in accordance with
13 generally accepted engineering or planning standards for a particular category of capital
14 improvements or facility expansions. The service unit for road and traffic signal impact
15 fees is average daily vehicle-miles of travel. The service unit for neighborhood and
16 regional park impact fees is equivalent dwelling units. The service unit for fire and
17 police impact fees is square feet, which is measured in terms of heated living area for
18 residential uses and gross floor area for non-residential development.